

IN THE SENATE OF THE UNITED STATES.

APRIL 14, 1858.—Ordered to be printed.

Mr. BENJAMIN made the following

REPORT.

[To accompany Bill S. 260.]

The Committee on the Judiciary, to whom was referred the petition of William Cruikshank and others, respectfully report :

The facts of this case appear to be as follows :

One Juan B. Alvarado had a claim for a certain tract of land in California, called the "Nicasio" tract, which he sold to Manuel Castro on the 1st February, 1853. Prior to this sale he had employed Eugene Musson, esq., as his attorney, to prosecute his claim for confirmation before the United States land commissioners for that State. It was agreed that, inasmuch as Castro was unable to speak English, the claim should remain and be prosecuted by Musson in Alvarado's name. It was so done. The claim was presented on the 1st March, 1853, in the name of Alvarado, and was rejected on the 25th September, 1855, whereupon a transcript of appeal from the decision was filed in the United States district court, on the 6th February, 1856.

By law, notice of intention to prosecute this appeal was required to be filed within six months. This was not done, in consequence of the neglect of Alvarado, to whom Mr. Musson communicated the necessity of such notice, together with a notice that he, Musson, in consequence of ill health, would no longer attend to the case.

The neglect of Alvarado is readily accounted for by the fact that he had ceased to be the owner of the claim, which was presented in his name for the benefit of Castro. Castro has since conveyed his interest to the memorialists, who pray permission to reinstate their appeal, notwithstanding its dismissal because of failure to give seasonable notice as aforesaid.

The committee are of opinion that the permission should be granted; that if the land is really not vacant land, and does not belong to the government, the rights of the private proprietors ought not to be forfeited, under the circumstances, by reason of their neglect, and they report a bill accordingly.

IN THE SENATE OF THE UNITED STATES

MADE AT THE SENATE CHAMBER

MR. HENRY HALL, SECRETARY

REPORT

OF THE

THE COMMITTEE ON THE LANDS OF THE UNITED STATES

The facts of this case appear to be as follows:
(The United States) had a claim to a certain tract of land in
California called the "Mission" tract, which was sold to Manuel
Garcia on the 1st February, 1850. From this tract he had an
undivided portion of the land, and he was allowed to possess his claim
for the consideration of the United States land commission for
that tract. It was agreed that inasmuch as Garcia was unable to
appear before the commission, the tract should remain and be sold by the
United States. It was so done. The claim was presented on
the 1st March, 1850, in the name of Garcia, and was rejected on
the 2nd September, 1850. A petition was presented of appeal from the
decision was filed in the United States District Court, on the 1st
January, 1851.

By last notice of intention to present this appeal was required to
be filed within six months. This was not done in consequence of the
neglect of Garcia to whom the Mission commission had the tract
and notice together with a notice that the United States in consequence of the neglect would no longer attend to the case.
The neglect of Garcia is easily accounted for by the fact that he
had reason to be the owner of the claim which was presented in his
name for the benefit of Garcia. (Garcia has since conveyed his interest
to the respondent) who pays attention to the notice of appeal, and
notwithstanding the neglect because of notice to give reasonable
notice as aforesaid.
The committee are of opinion that the petition should be granted;
that the land is really government land, and does not belong to the
Government; the right of the private parties ought not to be for-
feited under the circumstances by reason of their neglect, and they
report a bill accordingly.